



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,509	03/09/2001	Victor K. Blanco	MS1-762US	9216
22801	7590	02/11/2004	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			HOTALING, JOHN M	
			ART UNIT	PAPER NUMBER
			3713	
DATE MAILED: 02/11/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/802,509

Applicant(s)

BLANCO, VICTOR K.

Examiner

John M Hotaling II

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 2/26/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-86 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 and 55-83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 45-54 and 84-86 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,5,6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Group I in Paper No. 4 is acknowledged. The examiner would note that the original grouping of claims group I 1-44 and 54-83 and Group II 45-53 and 84-86 were contained a typographical error and the groups should be group I 1-44 and 55-83 and Group II 45-54 and 84-86. Please inform the examiner if this inadvertent typographical error presents a problem. The applicant's representative will be given a chance to respond.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-44 and 55-83 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al. (U.S. 6,599,194). Smith discloses all of the instant application. Specifically, Smith discloses a home video game console system that is modified to include additional communication and storage capability via a modem and hard disk drive and a user interface. Additionally, Smith et al. discloses it is contemplated that the enhanced video game console system may alternatively be packaged in a common integrated housing and

sold as a single unit. Smith et al. discloses the following; a game console (52) comprising a hard disk drive (206) that is non-removable from the game console and that stores a console application (file(s)) to which the game console boots that presents a graphical user interface providing navigation to media on the game console, wherein the hard disk drive is segregated into a user data region and an application data region (Figure 4, Column 1, lines 17-18, Column 2, lines 34-38, Column 3, lines 40-46, and 54-67, and Column 25, lines 3-22), media to play a game (Column 1, lines 10-18, Column 25, lines 3-22, Column 3, lines 57-67); media to watch a movie (television, video, or movie downloaded from the Internet) (Abstract, Column 1, lines 10-18, and Column 3, lines 57-67); and media to listen to music (Column 1, lines 10-18 and Column 3, lines 57-67), the game console application is stored on the non-removable hard disk drive and is executable on the processor (Column 3, lines 54-57), the non-removable hard disk drive is configured to store data associated with multiple saved games (Column 7, lines 34-42), the game console comprising an enclosure for the processor (100), the non-removable hard disk drive (206) and a port (80a-d) for interfacing with a game controller (56a-d) (Column 3, lines 41-46 and Figure 1A), a game console (52) comprising a processor (100) and a hard disk drive (206) coupled to the processor, wherein the hard disk drive stores a console application to which the game console boots, and wherein the hard disk drive (partitioned hard disk drive) stores application data such that data associated with a first application is inaccessible to other applications (Figure 4, Column 1, lines 17-18, Column 2, lines 34-38, Column 3, lines 40-46, and 54-67, Column 25, lines 3-22, and Column 17, lines 12-42). Smith discloses identifying a file name or program on the hard disk drive (Column 3, lines 57-67, Column 7, lines 34-42, Column 13, lines 3-17, Column 23, lines 1-20, and Column 25, lines 3-22), determining

Art Unit: 3713

portions of the hard disk drive that are associated with the video game based on the game identifier (Column 3, lines 57-67, Column 7, lines 34-42, Column 13, lines 3-17, Column 23, lines 1-20, and Column 25, lines 3-22). Additionally, file names stored in a file manager by name and folder/directory is inherent to a hard disk drive having file managing capabilities; media containing a game (Column 1, lines 10-18, Column 25, lines 3-22, Column 3, lines 57-67); and media containing a movie (television, video, or movie downloaded from the Internet) (Abstract, Column 1, lines 10-18, and Column 3, lines 57-67). Regarding the different media types please see the following; media to play a game (Column 1, lines 10-18, Column 25, lines 3-22, Column 3, lines 57-67); media to watch a movie (television, video, or movie downloaded from the Internet) (Abstract, Column 1, lines 10-18, and Column 3, lines 57-67); and media to listen to music (audio) (Column 1, lines 10-18, Column 25, lines 3-22, Column 3, lines 57-67). With respect to the graphical user interface please see Figure 4, Column 1, lines 17-18, Column 2, lines 34-38, Column 3, lines 40-46, and 54-67, and Columns 22, 23, 25, lines 3-22.

### ***Citation of Pertinent Prior Art***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Peralman '339, Lee '286, and Butcher et al '883 all disclose consol games with a graphical user interface.

***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Hotaling II whose telephone number is 703 305 0780. The examiner can normally be reached on Mon-Thurs 7:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on (703) 308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

**JOHN M. HOTALING, II**  
**PRIMARY EXAMINER**

February 9, 2004

